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SUBJECT: BURMA: TRAFFICKING IN PERSONS REPORT

REF: 03836

Burma's input for the sixth annual Trafficking in Persons Report follows. Answers are keyed to refTel questions.

Overview

-- A. Burma is a country of origin and, to a lesser extent, a country of transit for internationally trafficked men, women and children. Women are trafficked to Thailand as both domestic servants and sex workers. Women are trafficked to China as forced brides, and to China and Malaysia for sexual exploitation. Men and women are trafficked to Thailand and Malaysia for labor. On rare occasions, children are trafficked for labor and as street beggars. Internal trafficking of persons occurs primarily for labor in industrial zones and agricultural estates, and for sex workers. There are a few cases of persons trafficked through Burma from Bangladesh to Malaysia and from China to Thailand.

The government identifies trafficking "hot spots" in Kawthoung, Moulmein, Myawady and Tachilek on the Thai border; Muse and Loiay on the China border; Tamu on the India border; and Mandalay and Rangoon as transit centers. Members of the government's anti-trafficking task force are present in each of these "hot spots."

Information: No reliable estimates exist to gauge the magnitude of the trafficking problem. Some information is available from the police transnational crime unit, UN agencies, international NGOs working on trafficking issues, and their discussions with victims and community members. Forced labor also occurs in some ethnic border areas outside the central government control, but no reliable information exists about international trafficking in those regions.

Most At Risk: Those who have migrated voluntarily are vulnerable to international traffickers. Women are more vulnerable to be trafficked for sex work and as domestics; Thais prefer ethnic Shan women in particular. Children are most at risk to be used as street beggars, and men for physically demanding labor, such as in the fishing and construction industries. Those living in abroad in refugee camps or hiding in the jungle are less likely to be trafficked because they are out of the reach of brokers. The GOB identified 426 female trafficking victims and 418 male victims in 2005.

For internal trafficking, the rural poor are most at risk. They are usually trafficked to richer urban areas, to industrial zones and plantations as laborers.

The majority of trafficking cases resulting in legal action were found in Mandalay (a transit point), Tanintharyi (on Thai border), northern Shan State (on Chinese border), and in Rangoon (transit point).

The military and provincial and local officials procure a significant amount of forced labor. Those living in areas with the highest military presence, i.e., in remote border areas populated by ethnic groups, are most at risk for forced labor. Poor villagers in rural regions must provide labor on demand since they cannot pay to escape it. Most compulsory labor is performed by the old, youth and women to keep the primary income earners, usually the males, at their jobs. Urban poor Burman children in Rangoon and Mandalay, especially street children, are increasingly at risk for recruitment as child soldiers.

-- B. Trafficking remains a problem in Burma. The government has taken significant steps to address trafficking, but economic deterioration still prompts many to migrate, putting them at risk to be trafficked at some point in the process. Many who voluntarily move end up being trafficked.

New Law: On September 13, 2005, the government passed a comprehensive Anti Trafficking in Persons Law, drafted with input from the UN Office of Drugs and Crime (UNODC), the UN

Interagency Project on Human Trafficking in the Greater Mekong Subregion (UNIAP), the AusAID-sponsored Asia Regional Cooperation to Prevent People Trafficking (ARCPPT), Save the Children, and World Vision. The GOB disseminated the new law and conducted training for the legal and judicial community. At a National Seminar in March 2006 sponsored by UNIAP, high-level authorities emphasized their commitment to implement the new law. Participants discussed revision of the National Plan of Action (NAP) on Trafficking to be in accord with the new Law. The government also enlarged its Anti-Trafficking Unit from forty to sixty-five officers. At present, thirty-five members work at the Rangoon headquarters, and thirty members are assigned to trafficking "hot spot" areas around the country.

There appears to be political will to address international trafficking issues, including vocal support from the Prime Minister. The GOB just recently formed the Central Body, a key entity designed to implement the new Anti-Trafficking in Persons Law. In 2005, prosecutors convicted 426 traffickers in 203 cases, and identified 844 victims. The GOB prosecuted, convicted and detained these traffickers under the new law, but technically could sentence them until the Central Body is in place.

The government accepts assistance from the UN and international NGOs and bilateral assistance from other countries to help implement the Law. It supports the anti-trafficking work of World Vision, Save the Children, UNIAP, UNICEF, and International Organization for Migration (IOM) by facilitating their work and utilizing their services. However, the GOB exercises tight control over almost all NGO projects in the country, and in many cases, severely restricts NGO activities and access to certain parts of the country and parts of the population. These restrictions and impediments on NGO activities generally increased in 2005.

Recruitment of child soldiers remains a problem, driven more by the quota targets of a military with high attrition rates than by policy or law. The GOB reduced its limited discussions about this problem in 2005.

International Cooperation: The GOB cooperates with six neighboring nations in the Greater Mekong Sub-region through the Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT) process, and is attempting to forge similar relations with Indonesia and Malaysia. The GOB successfully repatriated 25 victims from Thailand, 36 victims from China and 41 victims from Malaysia in 2005, eventually turning them over to international or government-run NGOs after they spent time in a government transition shelter. Burma signed the "ASEAN Mutual Assistance in Criminal Matters" agreement in January 2006.

Traffickers are primarily individual, independent brokers. Many times, the victim seeks out a broker to find a job. What begins as migrant smuggling turns into trafficking along the way, sometimes with the prior knowledge of the broker. Brokers offer victims lucrative jobs, and sometimes family or acquaintances participate in trafficking the victims. Police arrested 223 female and 203 male traffickers in 2005. The GOB stations trained Anti-Trafficking Task Force representatives at the nine locations with the highest number of trafficking cases, and conducts awareness raising efforts in these areas with UN and international NGO assistance. Since Burma's borders are porous, and minimal documentation is needed to cross, false documents are not usually needed. Often, traffickers use public transportation systems to move their victims.

Forced Labor: The GOB prosecuted and convicted several local officials for forced labor for the first time in early 2005, dampening use of forced labor by some civilian authorities. However, when the GOB allowed officials to counter-sue their accusers, in April 2005 the ILO stopped referring cases to the authorities and GOB-ILO cooperation on investigations ceased. Because of a reduction in the level of combat operations directed against ethnic insurgents, military portering is less common at present. However, other forced labor activities continue, including non-combat portering; construction of roads, fencing, and infrastructure; maintenance of facilities; and income generation, cooking, and cleaning activities for civilian and military authorities.

Relations with the ILO on forced labor issues declined to a new low in 2005, with death threats and an intimidation campaign directed at the ILO Liaison Officer in Burma, and GOB threats to withdraw from the organization. The ILO Governing Board recommended in November 2005 that countries should again review relations with Burma and take actions regarding foreign direct investment in state or military-owned enterprises. It also decided to allow consideration of further steps at the next meeting. The ILO Director

General requested that the forced labor situation in Burma be added to the July 2006 ECOSOC agenda. Early in 2006, the GOB gave new assurances that it would protect the ILO Liaison Officer's security in Burma and allowed him to travel in country again, but it has not yet responded to ILO requests to resume meaningful discussion of forced labor issues. Although use of forced labor on large state infrastructure projects declined, local civilian authorities and military forces continue to use forced labor in their areas of control.

Ethnic insurgent groups also use compulsory labor, forced recruitment and child soldiers.

-- C. GOB budget allocations to fight trafficking are inadequate. The new law requires identification of funding sources, to include support from the UN and international NGOs. No specific information exists that officials are directly involved in international trafficking. However, pervasive corruption on most borders allows people to cross them easily. Police, legal, judicial and social workers lack the training and resources, e.g., transportation and communication, to be optimally effective.

-- D. The government continually monitors its efforts and makes regular reports about trafficking cases. Occasionally, migrant smuggling cases may also be included in these figures. The GOB shares this information with UN and NGOs working on the issue, and publishes statistics in the local press, the UNIAP trafficking newsletter, and on national, regional and NGO websites. The GOB thoroughly controls access to information, however, and statistics in general are incomplete and lack credibility.

The GOB does not report on cases of forced labor.

Prevention

-- A. The government acknowledges that cross-border trafficking is a problem and has taken actions to combat it since 1998. The government has verbally acknowledged that forced labor is a problem but, in 2005, did not continue any actions to address it.

-- B. The lead agencies involved are the Ministry of Home Affairs, through its Anti-Trafficking Unit under the Office of Transnational Organized Crime, and the Ministry of Social Welfare, Relief and Resettlement. Other agencies that are active during the process include the Ministries of Border Area Development and Planning, the Attorney General, the Immigration Service, and the Women's Affairs Federation, a government-affiliated "NGO." The lead agency for action on forced labor is the Ministry of Labor, and on child soldier recruitment is the Ministry of Defense.

-- C. The Ministry of Home Affairs and ARCPPT jointly conducted seven advocacy meetings and workshops in trafficking "hot spots", targeting local authorities and field-level officials. International NGO and UN efforts include nationwide TV spots, and the development and distribution of materials at the provincial level, which receive approvals and facilitation support from the GOB. The Ministry of Home Affairs, UNIAP and international NGO, AFXB conduct awareness raising activities at bus terminals, targeting drivers, merchants, ticket sellers and local police. At the March 2006 National Seminar, Ministry of Home Affairs and UNIAP representatives discussed implementation of the new Law with UN agencies, local and international NGOs, government legal and judicial representatives, and high-level officials from the Ministries of Home Affairs, Social Welfare, and Foreign Affairs, and the recruitment section of the Ministry of Defense.

-- D. The government-organized National Committee for Women's Affairs and the Myanmar Women's Affairs Federation work on trafficking and women's development issues. The GOB also has a limited poverty reduction program in place. UNICEF conducts several child protection programs and FAO addresses food security issues. The government also allows the UN and NGOs to conduct women's income generation projects and programs to bridge children into formal education, though under the tight control noted above.

-- F. The GOB seems most willing to engage and cooperate with international NGOs, the UN and other governments in the area of cross-border trafficking in persons. The government requests and accepts international support in this field, as well as shares information on its investigations and activities.

Cooperation on forced labor declined in the past year to a point of no action, though some GOB officials still meet with the ILO Liaison Officer.

-- G. Immigration, police and intelligence agency

representatives monitor border checkpoints, and have received information about the new law and their responsibilities to identify and fight trafficking. The GOB plans specific anti-TIP training for the future. The Anti Trafficking Unit has posted a trained task force representative in each of the nine "hot spot" areas.

-- H. A number of coordinating bodies for trafficking related issues exist:

- the Myanmar National Committee for Women's Affairs (MNCWA), chaired by the Minister of Social Welfare, Relief and Resettlement, which addresses women's issues;
- the Myanmar National Working Committee for Women's Affairs (MNCWA), chaired by the Deputy Minister, consists of thirty members from related ministries and NGOs;
- the Preventative Working Committee for Trafficking in Persons, under the MNCWA, is headed by the Deputy Minister of Home Affairs, and consists of twenty-four members from ministries and NGOs;
- the Human Trafficking Working Group, consisting of UN agencies and international NGOs, which meets quarterly to coordinate, communicate and strategize;
- the COMMIT Task Force, the national group tasked with implementation of the COMMIT Plan of Action developed in 2004 with the six Greater Mekong Sub-region countries; and
- the Task Force on Repatriation, with the Director General of the Ministry of Social Welfare, international NGOs and UN agencies, which works specifically on repatriation efforts.

Police officials expect the government's legal review committee to make recommendations on new laws to address migrant smuggling and corruption in the near future.

-- J. The government developed a National Action Plan (NAP) in 1998, and revised it in 2004 under the COMMIT plan of action. Participants at the National Seminar in early 2006 reviewed the draft of a new plan to accord with the new law, with added input from UN agencies. UNIAP hired a national consultant to review and compare NAPs from regional countries, and hosted a workshop on the results in October 2005. UNIAP also funded a government delegation to visit other countries to discuss NAP development.

Investigation and Prosecution

-- A. Burma passed the Anti Trafficking in Persons Law in September 2005. The law covers sexual exploitation, forced labor, slavery, servitude, debt bondage, and organ removal. The law applies to internal and external trafficking, and the Penal Code provides additional protection.

-- B. The penalty for trafficking in children, youth and women is ten years minimum to life imprisonment with no parole, and also allows for a fine. The penalty for trafficking persons other than children, women, or youth is five years minimum to ten years maximum, and also allows for a fine. The penalties are the same for sexual and labor exploitation. Under the penal code, a life sentence can be completed after twenty years imprisonment, but under the Trafficking Law, there is no possibility of early parole. The police also have the authority to seize the property of the offenders. Offenders guilty of trafficking and a serious crime (with a sentence of four years or more) can be sentenced to a minimum of 10 years to a maximum of life imprisonment or death sentence.

-- C. The penalty for rape is imprisonment for up to ten years, and also allows for a fine. If a person convicted of rape receives a sentence of four years or more, then a second sentence for trafficking would be from ten years minimum to life imprisonment.

-- D. Prostitution has been illegal in Burma since 1949. The activities of prostitutes (if they are not trafficked or forced), brothel owners, and pimps are all criminal violations. The client is not charged, and is usually considered a witness. In 2005, authorities closed many of the brothels on the Chinese border noted in last year's TIP report.

-- E. In 2005, the GOB investigated 203 cases of trafficking, arrested 203 males and 223 females, and rescued 418 males and 426 females. In 35 cases, 30 males and 18 females were sentenced to fewer than five years imprisonment; in 16 cases, 10 males and 9 females were imprisoned for five to ten years; and in 1 case a female was sentenced to over ten years imprisonment. The traffickers are all currently serving their prison terms.

The GOB has not taken action against military or civilian officials who have engaged in forced labor.

-- F. Most cross border and internal traffickers are independent individuals acting as brokers. Some are Burmese nationals living in Burma or neighboring countries. Others are Chinese nationals. The GOB and international

NGOs believe that most traffickers do not work together. The few that may work together do so in small, informal networks, and not organized criminal groups. The police have no information about the traffickers who bring Burmese to Malaysia. No specific evidence exists that employment or travel agencies or government officials are involved in cross border trafficking. No specific reports exist that trafficking proceeds fund organized crime or terrorist groups.

Military forces, provincial military and civilian authorities continue to use forced labor.

-- G. The ARCPPT has trained members of the Anti-Trafficking Unit, which actively investigates trafficking and smuggling cases. Electronic surveillance and undercover operations are not generally allowed, but the police can obtain permission from authorities on a case-by-case basis. The new legislation allows for law enforcement actions, including controlled delivery. No witness protection program exists. The police utilize immunity and reduced sentencing to gain cooperation from offenders.

-- H. In collaboration with ARCPPT, the police conducted training workshops in 2005 on the difference between smuggling and trafficking, investigation techniques, and international best practices. UNICEF supported police training on combating commercial sexual exploitation of children in 2005. The Central Police Training Institute in Mandalay developed teaching curriculum on trafficking. Police cadet courses and advanced police courses include lectures on trafficking. ARCPPT, supported by the GOB, UNICEF and UNIAP, has also trained members of Women's Affairs Federation and the Department of Social Welfare, and judges.

-- I. International cooperation with China: The GOB maintains a dialogue on trafficking with the Chinese Ministry of Public Security, as well as with Chinese police, narcotics, and border control officials. The two governments signed an MOU in January 2005 on combating transnational crime in border areas, and the GOB proposed a new MOU focusing on trafficking and border liaison offices at a bilateral meeting in November 2005. Officials repatriated twenty-three women from China in 2005. In July 2005, the GOB sent information it had developed about traffickers to Chinese officials who captured 9 Chinese and 32 Burmese offenders in a police raid. Chinese authorities sent the Burmese traffickers back to Burma, where police arrested them.

Thailand: Officials repatriated twenty-five victims from Thailand in 2005, and communication between the two countries on this issue is good. Often, authorities in Thailand send advance information to Burmese counterparts before repatriating victims. Burmese officials can then verify the information, reducing the amount of time the victim spends in a holding facility in Burma before going to a support center. Officials held a bilateral meeting on trafficking in November 2005. The GOB has provided additional information about Burmese traffickers in Thailand, and is waiting for a formal response from the Thai government.

Malaysia: Officials repatriated forty-one victims trafficked as sex workers from Malaysia last year. GOB officials told us that Burmese women, as well as women from other ASEAN countries, are trafficked to Malaysia. The GOB seeks to engage Malaysia on the issue to establish a formal cooperative relationship. Burmese and Cambodian officials plan travel to Malaysia to begin the process. GOB officials also said they hoped to invite Indonesia and Malaysia to join the next COMMIT meeting in Laos as observers.

-- J. Burma has no extradition treaties, and has not sent Burmese nationals to other countries for prosecution. Both China and Thailand have sent Burmese offenders back to Burma, and Burma is prepared to send offenders to neighboring countries on a case-by-case basis.

-- K. Committees at national, state, and township levels address crime issues and educate officials. These committees include regime council members, police officials, judges, and information officers. Central authorities plan to brief the committees on the new Anti-Trafficking Law and their responsibilities to implement its provisions.

Forced labor is used almost exclusively by military and civilian government officials. Since April 2005, no evidence exists that the government will take steps to investigate and prosecute these cases.

-- L. No specific evidence exists that the government is directly involved, or tolerates cross border trafficking,

although border officials accept bribes to allow people and goods to cross. If an official is found guilty of trafficking, a section of the new law provides for a prison term of three to seven years, and possibly a fine. If persons are internally trafficked for labor by a high-level official or well-connected individual, the police can be expected to self-limit their investigations, even if no political pressure has been overtly employed.

In 2005, the GOB charged ten officials with forced labor violations under section 374 of the penal code for the first time. The ILO made seven interventions, but stopped forwarding forced labor claims in April 2005 because the GOB condoned officials bringing countersuits against the claimants. From January to April, the government investigated seventeen cases of forced labor and rejected thirteen, took disciplinary action against the official charged in two cases, and, in two cases, released child soldiers. The government provided cash compensation to villagers in one case investigated in 2005.

-- M. Child sex tourism is not a major problem in Burma. The Anti-Trafficking and Child Laws provide some protection and have extraterritorial coverage.

-- N. ILO Convention 182: not signed;
ILO Convention 29: signed in 1955;
ILO Convention 105: not signed;
Optional Protocol to Convention on the Rights of the Child: not signed, though under consideration;
Protocol on Trafficking in Persons: signed in 2004.

Protection and Assistance to Victims

-- A. The Department of Social Welfare provides shelter to female trafficked victims at four vocational training centers, and at one house. Males are temporarily sheltered in four training schools. The Departments of Social Welfare and Health provide a reintegration package at the shelters, which includes education about trafficking and HIV/AIDS and other health issues, psychosocial support, counseling, vocational skills training, educational assistance and health services. Victims normally stay at these shelters for about one month until they are turned over to UNIAP, UNICEF and/or international NGOs, such as Save the Children and World Vision, for further support, including educational assistance, livelihood support, grants/loans, and business training. The Department of Social Welfare collaborates with UNIAP and NGOs to support life skills training, awareness raising, material dissemination, and grant/loan programs for victims until and after they return to their homes. The NGOs also provide follow-up care.

The government plans to establish temporary receiving centers at the borders, medical and rehabilitation shelters in the capital of each state and division, and educational and vocational training centers in Mandalay and Rangoon. GOB officials are seeking funding from bilateral sources. The Department of Social Welfare and the Women's Affairs Federation have a few loan programs to help victims start businesses, but credit and other income-generating activity support is provided primarily by NGOs. The government expects to receive funding from the COMMIT process and bilateral sources to support micro-credit programs for victims.

-- B. The government does not supply financial assistance to NGOs, but does contribute approvals, human resources, training places, and transportation services.

-- C. NGOs can provide care for victims under Department of Social Welfare custody while at shelters.

-- D. The new Law provides protection of trafficking victims' rights, though sometimes victims receive inappropriate media attention during the repatriation/reintegration process. Victims are not jailed, fined, or prosecuted for other violations.

In forced labor cases, the law does not protect victims from countersuit by accused officials. The government has filed charges against those who assist claimants of forced labor, including their legal counsel, and witnesses. In October 2005, the court imprisoned a claimant who successfully reported a forced labor case against a government official. The official countersued using an unrelated charge, and a judge sentenced the victim to eighteen months imprisonment. In another case, the legal counsel of a forced labor victim's family was charged with spreading false information, and in August 2005, villagers who corroborated a claimant's story also were charged with "spreading false information".

-- E. The government encourages internationally trafficked victims to assist in investigations and prosecutions.

Victims have the right to file civil suits and seek legal action against the traffickers. The government will hire and pay for a lawyer for the claimant if necessary. Under the law, no one is allowed to impede or obstruct the victim's case. The victim can give testimony without directly confronting the accused, e.g., via video. The government is responsible for finding alternative employment for the victim and arranging a suitable living situation. Victims can claim compensation from traffickers, and the government will pay this compensation from seized assets. If a victim does not want to be returned home, or if the family is not ready to receive the victim, the victim is not forced to return. The law has a provision to establish a fund for use in the rehabilitation and repatriation of victims, but the government does not currently budget adequate resources to carry out all of these responsibilities. The GOB will accept international assistance to this fund to supplement domestic budget allocations.

In forced labor cases, the government provides no legal assistance to victims.

-- F. No witness protection program exists in Burma. The government arranges for temporary shelter for the victim. Once the victim is reintegrated into society, the government and NGOs provide assistance for income generation activities, such as working capital or sewing machines. Children are kept with their parents if they are rescued together. If not, trafficked children are returned to their families as quickly as possible. If there is no family to accept the child, the Department of Social Welfare maintains custody at a shelter.

-- G. UNIAP, ARCPPT, UNICEF and Save the Children have conducted workshops for government officials on the provision of assistance to victims. The Ministry of Foreign Affairs participated in the regional training and the March 2006 National Seminar, but provides no specific training to embassy staff abroad. They are urged to cooperate with NGOs in their host countries.

-- H. The government provides shelter, medical care, social counseling, information on STDs, vocational training, reintegration service, and awareness about trafficking. The GOB provides basic food, clothing, shelter, and support materials. Local and international NGOs support the government in the provision of these and other services.

-- I. UNIAP, UNICEF, World Vision, and Save the Children work with the government and with local NGOs and community based organizations to provide critical assistance on trafficking awareness throughout the victim repatriation and reintegration processes. They conduct research on the problem and help cover costs of tracing the family, family assessments, transportation, lifestyle and skills training, and capital for income generation activities.

The ILO established an office in Burma to address the systemic forced labor practiced by government and military officials. Cooperation dwindled to minimal contact after April 2005. In early 2006, no agreement had been reached on further action, signaling a significant lack of political will.

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